Topfree 7 case appeal?

Relin wants to stop planned nude protests

By John O'Brien
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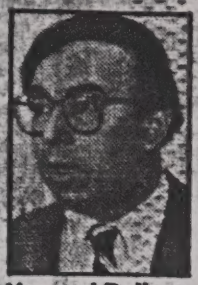
Prosecutors now say they will appeal a City Court decision dismissing indecent exposure charges against seven women who bared their breasts last summer at Cobbs Hill Park.

District Attorney Howard R. Relin, who earlier this week was leaning against an appeal, said yesterday that he will stick with his original intention of taking Judge Herman J. Walz's decision to a Monroe County Court judge.

Relin said he has a "community obligation" to appeal because of plans by the defendants, who call themselves the Topfree 7, to hold nude protests on public beaches next summer as a result of Walz's ruling.



Howard Relin

"I don't think that's what his decision provides for, but if we don't appeal, they'll feel free to promote nudity in public," Relin said. "I think under those circumstances, my obligation is to have a higher court make the decision."

The district attorney had said he might not appeal Walz's decision in order to prevent the women from arguing their case in a higher court. Because the

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Relin to appeal Topfree 7 case

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charges against them were dismissed, the women cannot initiate an appeal.

Walz dismissed the charges against the women on Monday, saying their First Amendment right to free speech protected their protest June 21 at Cobbs Hill, when they took their shirts off to protest a state law.

But the women were dissatisfied with the ruling because it denied their claim that a state law barring women, but not men, from going topless in public is unconstitutional on the basis of sex discrimination.

After Relin announced he might not appeal the decision, one of the defendants, Mary Lou Schloss, said the women would hold the same protest again this summer to take their case to court again. They would not, however, raise the First Amendment as a defense, she said.

Her husband, Morley Schloss, founder of the Rochester Nudist Society, announced plans for nudists across the state to hold nude protests next summer. He claimed Walz's decision allowed for such protests of the law, as long as the protesters make their message clear with signs and leaflets.

Relin said he hoped his appeal, to be filed next week, would prevent those protests.

If Walz's decision is overturned, the women intend to appeal to the Appellate Division of state Supreme Court, where they will argue the sex discrimination issue, Mary Lou Schloss said.